



October 3, 2017

NOTICE TO MEMBERSHIP: 2017 ELECTION

Squamish Nation Chiefs and Council would like to thank the Electoral Commission for all of its hard work and the Nation Members who provided feedback to the Commission for updating the 1981 Squamish Indian Band Election Regulations.

Council has a fiduciary duty to act in the best interest of the Nation. A key part of that duty is to make informed decisions. Council cannot make rushed decisions, nor can we expect you as Members to make rushed decisions, especially on matters of utmost importance like electoral reform. Council also has the responsibility to uphold the principles of the 1923 Amalgamation and the movement to a system of 16 elected Councillors in 1981, which are both foundations of our Nation.

At this point in time, the Commission is more than a year behind in its Work Plan. Council acknowledges that commissioners have worked hard and that the Commission was not appointed until November 18, 2015 by Council Motion for a term November 3, 2015 to November 19, 2019 to complete the Work Plan.

Council believes that time must be given to allow for proper preparation and planning to adequately engage with Membership and allow you to make an informed decision. The package distributed to Membership in April 2017 included close to 150 pages of information including a notice, timeline, draft law and draft regulation. It has always been Council's understanding that once the Commission tabled a draft Election and Referendum Code and Regulations that complied with its Terms of Reference and mandate, that the Commission would then engage with the Membership to provide substantive, meaningful engagement that would then allow the Members to make an informed decision.

The latest draft Election and Referendum documents provided to Council on June 30, 2017 included changes to the election date to February every four years. Council cannot agree to this as it is a departure from past practice that must go before the Members through a ratification vote.

Council does not want the same problems as were encountered in the Land Code vote, during which Members felt that the process was being rushed. Council believes something of this historical importance with the possibility of changing the fabric of the community and impacting Nation good governance should not be rushed.

Council informed the EOO of Service Delivery, 2013 Electoral Officer and the Commission that we must now proceed with calling an election for December 2017. Be assured that the good work of the Commission and feedback from Members are not lost. Delays with the Implementation of the Work Plan puts both Council and the Commission in a difficult position, as we have simply run out of time to finalize and approve the draft Election and Referendum documents and hold a ratification vote prior to the next election. Council has directed its independent legal advisor to revise the draft Election and Referendum documents in order to ensure they comply with the Commission's mandate.

Council will inform the previous Electoral Officer to call a nomination meeting for November 5, 2017, when a new Electoral Officer will be appointed to oversee an election in December 10, 2017 under the 1981 Regulations. In an effort to ensure transparency and good governance, Council passed the attached Band Council Resolution confirming that the December 2017 election will fall under the 1981 Regulations. In order to comply with the 30-day notice period under the 1981 Regulations, nominations must occur no later than November 5, 2017, in order to hold an election on December 10, 2017. Squamish Nation elections have historically been held on the first or second Sunday of December in an election year.



Draft Election and Referendum Code

From the onset and upon the appointment of the Commission, the mandate of the Commission was clear: it was to update the process of electing Councillors and the process for holding a referendum.

While the Commission canvassed the Nation for feedback on electoral reform, many comments received dealt with subject matter beyond the scope of the Commission's Terms of Reference and mandate. A draft document presented to Council on March 23, 2017 entitled *Squamish Nation Election and Referendum Law* contained numerous sections that addressed the governance and administration of Council. Council raised serious concerns regarding the content of that draft and it exceeding the Commission's mandate, which has been confirmed by independent legal advice.

The Work Plan as accepted stated key dates for deliverables that were to be undertaken prior to the appointment of the Commission. Unfortunately a number of phases were not adequately addressed and not presented to Council. A summary of the timeline and Work Plan includes the following:

- February 5, 2014 by Motion Council directed Band Manager, Band Manager's Department, and the 2013 Electoral Officer, Dustin Rivers, to develop a work plan and terms of reference to engage Membership on the question of updating the 1981 Squamish Nation Election Regulations.
- October 7, 2014 by Motion Council approved the Election Reform Work Plan and Terms of Reference as presented by the Electoral Officer, Dustin Rivers and Registry Department Head, Monica Jacobs and directed that they proceed to the first phase of the Work Plan (identifying concerns of membership).
- An 'Identification Phase' was identified from October, 2014 to September 2015 to determine what the Members' concerns are with the current Squamish Nation electoral process, to identify the best potential solutions to the Members' concerns and to identify Membership's preferred solutions to address the Members' concerns.
- A Preliminary Report of the Memberships' concerns was to be presented to Council by March 31, 2015. Council never received a Preliminary Report.
- Potential Solutions Identification (April – May 2015) was to be researched and an Options Report was to be presented to Council by May 31, 2015. An Options Report was never presented to Council.
- Preferred Solutions Identification was to occur from June through September 2015. An Options Report was not provided to Council.
- A Final Report was to be prepared and presented to Council by September 30, 2015. This did not occur, instead the Commission presented the draft Election and Referendum documents on March 23, 2017 with a PowerPoint presentation.
- The Commission was appointed on November 18, 2015 by Council Motion for a term from November 3, 2015 to November 19, 2019 to complete the Work Plan.
- The Work Plan stated that the Commission would conclude its work no later than March 31, 2016 by making a recommendation to Chiefs and Council on the final form of the draft Election and Referendum Code to be presented to eligible voters for ratification.



- The Ratification Phase was to be from April to September 2016. As identified in the Work Plan the Draft Code could only be referred to a referendum if it was accepted by Council in principle and approved by Band Council Resolution. Council does not approve the Draft Code in principle for the reasons stated above, and do not refer the Draft Code to the Membership for ratification at this time.
- A referendum vote for a new Election and Referendum Code was to be held between April and September 2016.

At this point in time, the Commission is more than a year behind in its Work Plan, having omitted key parts of the Work Plan, and instead of working with and updating Council as agreed to by Council in the Work Plan, it tabled a Draft Code and Draft Election Regulations that it is not willing to revise further.

Moving Forward

On July 6, 2017 Council received the draft Election and Referendum documents as a report and will consider the feedback about the administration and governance of Council for inclusion in the Governance Manual or new procedures for Membership meetings. Anything not pertaining to the mandate may be considered in the future, and Council wants to ensure that the Commission and Membership knows that this valuable feedback will not be lost and may be considered in the future. As part of Council's fiduciary duty, it must honour and uphold the principles of the Amalgamation of 1923 and show continued respect for those Chiefs who founded our Nation.

Based on the principles of transparency and good governance Council sought independent legal advice regarding the draft Election and Regulation documents and whether they complied with the Commission's mandate. Based on legal advice, the Draft Code will be amended to ensure consistency with the Commission's mandate in its Terms of Reference by deleting or revising the following:

- provisions that address issues of governance rather than elections or referendums, including provisions which would establish new elected offices and regional voting structures which are inconsistent with the Governance Manual;
- provisions that extend the authority of the Commission beyond the limits set out in the Terms of Reference, including provisions authorizing the Commission to investigate and remove individuals from elected office; and
- provisions that duplicate or conflict with the Governance Manual.

In order to preserve the fairness of the electoral reform process and the independence of the Commission, amendments to the Draft Code will be made only to ensure that it conforms with the Commission's mandate.

Following the receipt of the revised draft Election and Referendum documents Council will review them with the Commission and ask the Commission to develop a new work plan and timeline to engage with Membership on the draft Code and to bring it to membership for ratification during the 2018 to 2021 term.

Squamish Nation Chiefs and Council



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